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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,968	05/22/2001	John Andrew Aiken JR.	5577-233	9829

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EXAMINER

VU, VIET DUY

ART UNIT PAPER NUMBER

2154

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/862,968

Applicant(s)

AIKEN ET AL.

Examiner

Viet Vu

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11,13-17,19-24,26-30,32,34 and 36-47 is/are rejected.
- 7) ☒ Claim(s) 12,25,31,33 and 35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

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1. Applicant is informed that the original claim listing comprises two claims that were numbered as claim 18. Pursuant rule 1.126, claims 18-46 have been renumbered by the office as claims 19-47 respectively. Applicant is required to use correct claim numbers in the next correspondence.

**Art Rejections:**

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-11, 13-17, 19-24, 26-30, 32, 34 and 36-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrera, III, U.S. pat. No. 6,247,057.

Per claims 1-8, Barrera discloses a system and method for assigning a virtual port for a connection originated by one of multiple application instances comprising:

- a) providing a table for mapping a physical port for the common network associated with a network server to a virtual port (see col 8, lines 53-63),
- b) selecting/assigning the virtual port in response to a request from one of multiple application instances (see col 6, line 64 - col 7, line 13),
- c) updating the table in response to requests for new connection or terminating (see col 8, lines 60-63).

Barrera also teaches an alternative embodiment to the use of the mapping table where a fixed number of virtual ports are used to assign to the application instances (see col 8, lines 64-67). Barrera does not explicitly teach providing means for indicating availability of the fixed virtual ports for the network address/server.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize such indicators in Barrera because it would have enabled implementing the fixed mapping embodiment to assign the virtual port to the application instances (see col 9, lines 19-26).

Per claim 9, it would have been further obvious to one skilled in the art that Barrera's invention would have been applicable to any conventional data computing systems.

Per claims 10-11, Barrera teaches that the port assignment process is usually performed at TCP/IP stacks (coupling facility) of the data processing systems (see col 6, lines 8-24).

Claims 13-17, 19-24, 26-30, 32, 34 and 36-47 are similar in scope as that of claims 1-11 and hence are rejected for the same rationale set forth above for claims 1-11.

**Allowable Subject Matter:**

5. Claims 12, 18, 25, 31, 33 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion:**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 703-305-9597. The examiner can normally be reached on Monday through Thursday from 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on (703) 305-8498.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-305-9600. The Group fax number is 703-872-9306.



VIET D. VU  
PRIMARY EXAMINER

Art Unit 2154

10/14/04